

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

FLOYD L. KIMBALL,

Plaintiff,

v.

STEVE RICHMOND, *et al*,

Defendants.

Case No. C04-5838RBL

REPORT AND  
RECOMMENDATION

Noted for June 3, 2005

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter is before the court because of plaintiff's failure to notify the court of his current address. After reviewing the record, the undersigned recommends that the court dismiss plaintiff's complaint for the reasons set forth below.

DISCUSSION

On January 31, 2005, the court ordered plaintiff to cure certain deficiencies in his complaint by no later than March 2, 2005, or show cause why this matter should not be dismissed. (Dkt. #12). On February 16, 2005, the court issued a minute order directing plaintiff to provide the court with one mailing address to which the court's orders could be sent by no later than April 15, 2005. (Dkt. #17). The court issued that order because plaintiff previously had provided a notice of change of address in which he listed several addresses where he could be reached, but the majority of which turned out to be invalid.

On March 1, 2005, plaintiff filed a motion for extension of time, which was dated February 20, 2005, requesting additional time to respond to the court's order to show cause, because he would be out of the state and would not return until March 2005. (Dkt. #19). The court granted plaintiff's motion, giving

1 him a deadline of April 15, 2005, by which he had to provide the court with a notice of change of address  
2 listing one mailing address, and a response to the order to show cause. (Dkt. #20). Although one copy of  
3 the order granting the motion for extension of time that was sent to one of the three addresses previously  
4 provided by plaintiff was returned as undeliverable (Dkt. #22), the others apparently were not. To date,  
5 plaintiff has not responded to any of the court's orders.

6 Local Rule CR 41(b)(2) states:

7 A party proceeding pro se shall keep the court and opposing parties advised as to his  
8 current address. If mail directed to a pro se plaintiff by the clerk is returned by the post  
9 office, and if such plaintiff fails to notify the court and opposing parties within sixty  
days thereafter of his current address, the court may dismiss the action without  
prejudice for failure to prosecute.

10 Here, the court has sent plaintiff its orders to the addresses provided to it by plaintiff, even though plaintiff  
11 has the responsibility for notifying the court of any change of address. The court is unaware of any other  
12 place of residence or confinement for plaintiff, and, as discussed above, plaintiff has failed to provide the  
13 court with a notice of a change in his mailing address or responses to any of its orders.

14 CONCLUSION

15 Based on the foregoing discussion, the undersigned recommends that the court dismiss this matter  
16 without prejudice for failure to prosecute pursuant to Local Rule CR 41(b)(2).

17 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedures, the  
18 parties shall have ten (10) days from service of this Report and Recommendation to file written objections  
19 thereto. See also Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for  
20 purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule  
21 72(b), the clerk is directed set this matter for consideration on **June 3, 2005**, as noted in the caption.

22 DATED this 9th day of May, 2005.

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26 Karen L. Strombom  
27 United States Magistrate Judge  
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